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| PRE-APPEAL BRIEF REQUEST FOR REVIEW | | Docket Number (Optional) STL919990134US3/A8644 | | | | | | | | | | | |
| I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on _____ Signature _____ Typed or printed name _____ | Application Number 09/750,475 | Filed December 28, 2000 | | | | | | | | | | | |
| | First Named Inventor NGUYEN, Lynh | | | | | | | | | | | | |
| | Art Unit 2452 | Examiner CHANKONG, DOHM | | | | | | | | | | | |
| <p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <table style="width: 100%; border: none;"><tr><td style="width: 50%; vertical-align: top; padding: 5px;"><input type="checkbox"/> applicant/inventor.</td><td style="width: 50%; vertical-align: top; padding: 5px; text-align: right;">/Ebenesar D. Thomas/</td></tr><tr><td style="vertical-align: top; padding: 5px;"><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</td><td style="vertical-align: top; padding: 5px; text-align: right;">Signature Ebenesar D. Thomas</td></tr><tr><td style="vertical-align: top; padding: 5px;"><input checked="" type="checkbox"/> attorney or agent of record. Registration number 62,499</td><td style="vertical-align: top; padding: 5px; text-align: right;">Typed or printed name 202-293-7060</td></tr><tr><td style="vertical-align: top; padding: 5px;"><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____</td><td style="vertical-align: top; padding: 5px; text-align: right;">Telephone number March 28, 2012</td></tr><tr><td></td><td style="text-align: right;">Date</td></tr></table> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p> | | | | <input type="checkbox"/> applicant/inventor. | /Ebenesar D. Thomas/ | <input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96) | Signature Ebenesar D. Thomas | <input checked="" type="checkbox"/> attorney or agent of record. Registration number 62,499 | Typed or printed name 202-293-7060 | <input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____ | Telephone number March 28, 2012 | | Date |
| <input type="checkbox"/> applicant/inventor. | /Ebenesar D. Thomas/ | | | | | | | | | | | | |
| <input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96) | Signature Ebenesar D. Thomas | | | | | | | | | | | | |
| <input checked="" type="checkbox"/> attorney or agent of record. Registration number 62,499 | Typed or printed name 202-293-7060 | | | | | | | | | | | | |
| <input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____ | Telephone number March 28, 2012 | | | | | | | | | | | | |
| | Date | | | | | | | | | | | | |
| <input type="checkbox"/> *Total of _____ forms are submitted. | | | | | | | | | | | | | |

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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The information provided by you in this form will be subject to the following routine uses:

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6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
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9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Docket No: STL919990134US3/A8644

NGUYEN, Lynh

Group Art Unit: 2452

Appln. No.: 09/750,475

Examiner: CHANKONG, DOHM

Confirmation No.: 7832

Filed: December 28, 2000

For: DATA SOURCE INTERFACE ENHANCED ERROR RECOVERY

SUBMISSION OF PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Pursuant to the Pre-Appeal Brief Conference Pilot Program, and further to the Examiner's Final Office Action dated December 28, 2011, Applicant files this Pre-Appeal Brief Request for Review. This Request is also accompanied by the filing of a Notice of Appeal and appropriate fees.

Applicant turns now to the rejection at issue.

Claims 1, 6-8, 13-15, 18-22 and 24 are rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Yousefi'zadeh, (U.S. Patent No. 6,950,848; hereinafter "Yousefi'zadeh") in view of Guenther et al, (U.S. Patent No. 6,134,588; hereinafter "Guenther"), in further view of Albert et al., (U.S. Patent No. 6,549,516; hereinafter "Albert").

Applicant traverses the rejection as follows.

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Claim 1 recites, *inter alia*, "wherein the at least one port module bypasses the connection manager in the subsequent request." Claims 8 and 15 recite features similar to claim 1. According to these features, the at least one port module **bypasses** the connection manager **in the subsequent request for the data source**. That is, the connection manager is bypassed **in the subsequent request for the data source**. Applicant respectfully submits that Albert does not teach or suggest these features for at least the reasons submitted in the Response Under 37 C.F.R 1.116 filed on February 28, 2012 and for the reasons discussed below.

In page 4 of the Office Action, the Examiner acknowledges that Yousefi'zadeh does not teach or suggest the feature of "wherein the at least one port module bypasses the connection manager in the subsequent request," but the Examiner relies on column 13, lines 4-8 of Albert for allegedly disclosing these features. Applicant respectfully disagrees for at least the following reasons.

Albert relates to providing network services such as load balancing, packet filtering or Network Address Translation (NAT). Albert discloses a system that includes a service manager that determines how a network service is provided for a data flow and sends instructions to routers that detect packets for the data flow when such packets are actually detected by the routers (column 2, lines 12-20). In the cited portion of the reference, Albert discloses that if future packets in either flow sent from the client or host match the affinity key in one of the fixed affinities and are handled by the forwarding agent in accordance with the fixed affinity, then it is not necessary to forward the packet to the service manager (column 13, lines 4-8). Here, Albert merely discloses that it is not necessary for a packet having a matching affinity key within a data flow to be forwarded

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to the service manager. However, Albert is not at all concerned with **the subsequent request for the data source**, as recited in claim 1.

Moreover, in column 6, lines 60-63 cited in the Advisory Action, Albert discloses that some traffic in the network 210 bound for the servers passes through the forwarding agent 231. However, “some traffic” disclosed in Albert does not teach or suggest the claimed “subsequent request” for the data source as recited in the claims. That is, any arbitrary “traffic” or “data packet” disclosed in Albert do not teach or suggest the subsequent request recited in the independent claims.

Specifically, claim 1 expressly recites “**subsequent request for the data source**,” i.e., a **request** for the data source that is **subsequent** to the original request. Therefore, in order to disclose these features, the cited combination of the references would necessarily have to teach or suggest “**subsequent request for the data source**.”

In contrast, Albert at most discloses that it is not necessary to forward packets that are already in the flow and that some traffic in the network 210 bound for the servers passes through the forwarding agent 231. The “packets” and “some traffic” of Albert are not **requests for the data source**, as expressly recited in claim 1. As such, future packets are not **subsequent request for the data source**. Accordingly, Albert does not teach or suggest “wherein the at least one port module bypasses the connection manager in the subsequent request.”

Furthermore, claim 1 recites, *inter alia*, “wherein the at least one port module sends an error message to the interface module indicating the unavailability of the data source, reestablishes a connection with the data source, and reconnects the remote application to the data source directly communicating with the remote application.”

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According to these features of claim 1, an error message to the interface module indicating the unavailability of the data source from the port module.

In page 4 of the Office Action, the Examiner acknowledges that Yousefi'zadeh does not teach or suggest "wherein the at least one port module sends an error message to the interface module indicating the unavailability of the data source," but contends that FIG. 6 of Guenther allegedly discloses these features. Applicant respectfully disagrees for at least the following reasons.

In FIG. 6, Guenther discloses a flowchart of Renew HAL (Hostname Address List) routine of the Hostname Process that provides an up-to-date HAL for use. However, FIG. 6 does not teach or suggest "wherein the at least one port module sends an error message to the interface module indicating the unavailability of the data source."

In particular, Guenther discloses that the routine begins at step 92 by going through the HAL entries for the HAL returned. If the timestamp is older than Tx, then Status is set to "OK". At step 94, a test is performed to determine whether the list is a random list. If the outcome of the test at step 94 indicates that the list is not a random list, then the HAL is a primary/backup list. Further, if the outcome of a test at step 104 indicates that the list is older than Tz, or after step 108 for rebuilding HAL, the routine continues at step 110 to locate the first "OK" entry, which is then set to "Current." If no entry is "Current", the routine branches to step 112 and returns an error (column 7, lines 27-53). However, there is no teaching or suggestion of "wherein the at least one port module sends an error message to the interface module indicating the unavailability of the data source."

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In the above discussed portion corresponding to Fig. 6, Guenther merely discloses that if no entry is "Current", then the routine returns an error. However, there is no teaching or suggestion of (i) an error message being sent **to the interface module** and (ii) and error message **indicating the unavailability of the data source**.

In the Advisory Action, the Examiner cites column 7, lines 40-53 of Guenther for allegedly showing that an error message is returned. However, as noted above, this portion of Guenther merely states that if no entry is "Current", the routine branches to step 112 and returns an error. However, there is no teaching or suggestion of where the error is returned, particular, does not teach or suggest "returning an error message **to the interface module**."

In view of the above, Applicant respectfully submits that claims 1, 8 and 15 are patentable over the cited combination of references.

Claims 6-7, 13-14, 18-22 and 24 that depend from claims 1, 8 and 15 are patentable over the cited combination of references at least by virtue of their dependency and the additional features recited therein.

Reconsideration and allowance of this Application are now believed to be in order, and such actions are hereby solicited.

Respectfully submitted,

/Ebenesar D. Thomas/

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